

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STEPHEN YANG,

Plaintiff,

- against -

VIACOM INTERNATIONAL INC.

Defendant.

Docket No. 1:17-cv-7727

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Stephen Yang (“Yang” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Viacom International Inc., (“Viacom” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of Dan Rochkind owned and registered by Yang, a New York based professional photographer. Accordingly, Yang seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or transacting doing business in New York and is registered to do business in the State of New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Yang is a professional photojournalist in the business of licensing his photographs to online and print media for a fee having a usual place of business at 270 Empire Boulevard, #1K, Brooklyn, New York 11225.

6. Upon information and belief, Viacom is a foreign business corporation duly organized and existing under the laws of the State of Delaware, with a place of business at 1515 Broadway, New York, New York 10036. Upon information and belief, Viacom is registered with the New York Department of State, Division of Corporations to do business in the State of New York. At all times material hereto, Viacom has owned and operated a website at the URL: www.ComedyCentral.Co.UK (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

7. Yang photographed Dan Rochkind (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Yang is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph was registered with United States Copyright Office and was given Copyright Registration Number VA 2-055-141.

B. Defendant’s Infringing Activities

10. Viacom ran five articles on the Website with the Photograph. See <http://www.comedycentral.co.uk/news/articles/this-woman-will-send-you-unsolicited-dick-pics-to-your-mum>, <http://www.comedycentral.co.uk/viral/articles/17-times-tina-fey-was-just-fecking-hilarious>, <http://www.comedycentral.co.uk/viral/articles/27-feminist-comebacks-that-give-you-faith>, <http://www.comedycentral.co.uk/twitter/articles/bathe-in-the-male-tears-of-the-people-upset-the-doctor-is-a-woman>, <http://www.comedycentral.co.uk/viral/articles/men-made-a-pool-float-that-looks-like-a-sanitary-towel-because-patriarchy>. The articles prominently featured the Photograph. True and correct copies of the articles with the Photograph are attached hereto as Exhibit B.

11. The Photograph appears on Viacom's computer servers.

12. Viacom did not license the Photograph from Plaintiff for its articles, nor did Viacom have Plaintiff's permission or consent to publish the Photograph on its Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST VIACOM)
(17 U.S.C. §§ 106, 501)

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

14. Viacom infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. Viacom is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

15. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the foregoing acts of infringement by Viacom have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

17. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Viacom be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
4. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
October 9, 2017

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